

Message Text

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ACTION DLOS-09

INFO OCT-01 EUR-12 EA-10 ISO-00 IO-13 ACDA-12 AGRE-00

AID-05 CEA-01 CEQ-01 CG-00 CIAE-00 COME-00

DODE-00 DOTE-00 EB-08 EPA-01 SOE-02 DOE-15 FMC-01

TRSE-00 H-01 INR-10 INT-05 JUSE-00 L-03 NSAE-00

NSC-05 NSF-01 OES-07 OMB-01 PA-01 PM-05 SP-02

SS-15 ICA-11 /158 W

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R 272124Z JUN 78

FM AMEMBASSY PARIS

TO SECSTATE WASHDC 3953

INFO AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY LONDON

AMEMBASSY OTTAWA

AMEMBASSY ROME

AMEMBASSY THE HAGUE

AMEMBASSY TOKYO

USMISSION USUN

C O N F I D E N T I A L SECTION 01 OF 03 PARIS 20479

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LIKE-MINDED MEETING - JUNE 26, 1978

SUMMARY: LIKE-MINDED COUNTRIES, I.E., COUNTRIES WITH
LIKELY SEABED MINERS, MET IN PARIS ON THE MORNING OF
JUNE 26 TO ANALYZE THE RECENT GENEVA SEGMENT OF THE
SEVENTH SESSION OF UNCLOS. THERE WAS GENERAL AGREEMENT
THAT SOME PROGRESS HAD OCCURRED IN GENEVA BUT THAT MUCH
WORK REMAINED TO BE DONE. THERE WAS ALSO GENERAL AGREE-
MENT THAT ANNEX II OF THE ICNT SHOULD RECEIVE ATTENTION
AT THE CONTINUATION OF THE SEVENTH SESSION. FRANCE,
UK, FRG, BELGIUM, ITALY AND NETHERLANDS WERE HARSHLY
CRITICAL OF GENEVA RESULTS ON SEABEDS, AND SEVERAL
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TERMED PRODUCTION CEILING AS UNACCEPTABLE. FRANCE,
FRG, AND UK DISAGREED WITH THE US VIEW THAT SUBJECTS
DISCUSSED IN NJENGA GROUP AT GENEVA SHOULD NOT BE TAKEN
UP AT NEW YORK; THEY INDICATED THAT SUCH A STRATEGY,
GIVEN THE MODUS OPERANDI OF UNCLOS, WOULD LEAD TO A
TEXT BINDING ON THE CONFERENCE BUT UNACCEPTABLE TO THE
LIKE-MINDED COUNTRIES.

1. COUNTRIES WITH POTENTIAL SEABED MINING CAPABILITY ("LIKE-MINDED" COUNTRIES) MET IN PARIS AT FRENCH INVITATION ON THE MORNING OF JUNE 26 TO ANALYZE RESULTS OF THE GENEVA SEGMENT OF THE SEVENTH SESSION OF UNCLOS. IN ATTENDANCE WERE THE U.S., FRANCE, THE FRG, BELGIUM, ITALY, JAPAN, THE NETHERLANDS, THE UK, AND, FOR THE FIRST TIME AS A FULL PARTICIPANT, CANADA.

2. FRANCE (JEANNEL) STATED THAT THERE WAS "MINOR PROGRESS" IN GENEVA BUT THAT THE TEXTS DEVELOPED THERE UNDER THE LEADERSHIP OF FRANK NJENGA OF KENYA (THE NJENGA TEXTS) WERE "UNACCEPTABLE" TO INDUSTRIALIZED COUNTRIES, ESPECIALLY ON TRANSFER OF TECHNOLOGY (TOT) AND THE REVIEW CLAUSE. FRANCE POINTED OUT THAT THERE WAS NO AGREEMENT AMONG THE LIKE-MINDED ON THE NEW TEXT ON PRODUCTION LIMITATION, EXPRESSED THE VIEW THAT EVEN A BLOCKING VOTE FOR INDUSTRIALIZED COUNTRIES IN THE COUNCIL WOULD BE NEGATED BY THE GREATER POWERS OF THE ASSEMBLY, AND NOTED THAT NEW TEXT ON FINANCIAL ARRANGEMENTS HAD BEEN SUBJECT TO "HARSH CRITICISM" IN FRANCE.

3. THE FRG (WOLFF) STATED THAT THE CONFERENCE HAD REGAINED ITS MOMENTUM IN GENEVA AND THAT LDCS HAD BEEN HIGHLY PREPARED TO CONDUCT NEGOTIATIONS. NEVERTHELESS, WHILE THE PARALLEL SYSTEM WAS NOW CLEARER THAN CONFIDENTIAL

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BEFORE, THE TEXTS SERIOUSLY CONCERNED THE GERMANS BECAUSE THEY FELT THAT THE POSSIBILITY THAT A CONTRACT COULD BE CANCELLED IF NO TOT OCCURRED MEANT THERE WAS NO ASSURED ACCESS. ARTICLE 150 GIVES THE AUTHORITY TOO MUCH CONTROL OVER ALL MINERALS FROM THE AREA. THE FRG HAS NOT YET THOROUGHLY ANALYZED NEW ARTICLE 150 (BIS) WITH RESPECT TO THE NUMBER OF POTENTIALLY AVAILABLE MINE SITES. ARTICLE 153 (PARA 6) CASTS SOME DOUBT ON THE READINESS OF LDCS TO ALLOW THE PARALLEL SYSTEM A FAIR CHANCE TO WORK. MARINE SCIENTIFIC RESEARCH (MSR) TEXT NEEDS FURTHER CLARIFICATION WITH RESPECT TO THE RIGHT OF STATES TO CONDUCT RESEARCH.

4. BELGIUM (NOLARD) WAS "EXTREMELY" DISAPPOINTED WITH GENEVA MEETING. SOME MINOR PROGRESS ASIDE, ARTICLE 150 CREATES AN ORGANIZATION CONTROLLING MARKETS AND TRADE OF RAW MATERIALS EXTRACTED FROM THE AREA. ARTICLE 150 (BIS) IS A PROPOSAL OF TWO COUNTRIES ONLY, AND BELGIUM "CANNOT GO ALONG". PROBLEMS WITH ARTICLE 153 ARE LESS SEVERE, AND NEW TEXT ON FINANCIAL ARRANGEMENTS IS POSITIVE.

5. THE UK (WOOD) STATED THAT NEW TEXTS ARE SO DEFICIENT AS TO RAISE THE QUESTION OF WHETHER THE CONFERENCE WILL EVER PRODUCE A TREATY THAT WILL ALLOW COMPANIES TO MINE ON A COMMERCIAL BASIS. MOST SERIOUS IS THE PRODUCTION LIMITATION TEXT, WHICH, WHILE BETTER

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SS-15 ICA-11 /158 W
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R 272124Z JUN 78
FM AMEMBASSY PARIS
TO SECSTATE WASHDC 3954
INFO AMEMBASSY BONN
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THAN ICNT, WILL LIKELY PREVENT PRODUCTION OF SEABED MINERALS NEEDED BY THE WORLD. NEW ARTICLE 150 ALLOWS THE AUTHORITY TO REGULATE THE MARKET IN MINERALS. MSR IS ALSO A PROBLEM, AS IS ARTICLE 153 (PARA 6). FINANCIAL ARRANGEMENTS NEGOTIATIONS PRODUCED PROGRESS BUT THERE IS NO ROOM FOR COMPROMISE ON SPECIFIC FIGURES. ON TOT, NJENGA DISTORTED A FORTHCOMING EEC PROPOSAL INTO A TEXT WHICH WILL FORECLOSE THE POSSIBILITY OF INVESTMENT BY PRIVATE FIRMS.

6. THE US (BERLIND) SAID THAT WHILE THERE IS CLEARLY
STILL MUCH WORK TO BE DONE, US ASSESSMENT OF GENEVA
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RESULTS AS REFLECTED IN MAY 22 STATEMENT BY AMBASSADOR
RICHARDSON WAS MORE OPTIMISTIC. IT WAS NOTED THAT THE
STATEMENT DEALT NOT ONLY WITH SEABEDS BUT WITH OTHER
IMPORTANT ISSUES ON WHICH SIGNIFICANT PROGRESS HAD
BEEN MADE, THAT IT WAS A COUNTERBALANCE TO EARLIER
HARSH ASSESSMENTS FROM THE US INTENDED TO ENCOURAGE
CONTINUATION OF THE GOOD GENEVA NEGOTIATING ATMOSPHERE
AT THE RESUMED SESSION IN NEW YORK, AND THAT CRITICS
SHOULD DISTINGUISH BETWEEN A TEXT THAT IS SATISFACTORY
AS A BASIS FOR FURTHER NEGOTIATION ON THE ONE HAND AND
AN ACCEPTABLE TREATY TEXT ON THE OTHER. AS LONG AS IT
IS CLEAR THAT THE NEW GENEVA TEXTS FALL IN THE FORMER
CATEGORY, THEY CAN CLEARLY BE CHARACTERIZED AS
REPRESENTING PROGRESS OVER THE ICNT. US EXPRESSED
PREFERENCE FOR MOVING ON TO NEW ISSUES AT NEW YORK,
RETURNING TO ARTICLES DISCUSSED IN GENEVA AT A LATER
DATE. US ALSO WENT OVER WORK REMAINING TO BE DONE ON
SEABEDS AT FUTURE SESSIONS.

7. JAPAN (IGUCHI) WAS ENCOURAGED BY THE IMPROVED
NEGOTIATING ATMOSPHERE AT GENEVA AND THE EMERGENCE OF
THE MODERATES IN THE G-77. THE TEXTS PRODUCED THERE
MAY BE A BASIS FOR NEGOTIATION, BUT NOT COMPROMISE.
THE PRODUCTION LIMITATION IS TOO STRICT BECAUSE IT ADDS
ONLY ONE OR TWO SITES TO THE ICNT FORMULA AND ONE HALF
OF THESE WOULD GO TO THE ENTERPRISE. ON TOT, JAPAN
IS NOT PREPARED TO ACCEPT COMPULSORY ARBITRATION, EVEN
THOUGH THE ADDITION OF THE ADJECTIVE "COMMERCIAL"
BEFORE "TERMS AND CONDITIONS" IS AN IMPROVEMENT, SINCE
THE PENALTY FOR NOT ACCEPTING AN ARBITRAL DECISION
COULD BE CANCELLATION OF A CONTRACT. FINANCIAL ARRANGE-
MENTS WERE THE BEST RESULTS IN GENEVA BUT IT MUST BE
MADE CLEAR THAT THE ENTERPRISE IS SUBJECT TO THE SAME
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ARRANGEMENTS AS OTHER OPERATORS. 153 (6) IS BAD BUT
BETTER THAN THE ICNT: IF THE MORATORIUM IS APPLIED TO
TOT ENTERPRISE AS WELL, IT MIGHT BE NEGOTIABLE. JAPAN
IS CONCERNED, HOWEVER, THAT A REVIEW CONFERENCE MIGHT
PROPOSE EXTENDING THE PRODUCTION CEILING. THE NEW YORK
SESSION SHOULD DISCUSS THE RATIFICATION PROCEDURE FOR
THE REVIEW CONFERENCE, BUT STATES SHOULD HAVE THE

OPTION OF RESERVING NO MATTER WHAT PROCEDURE IS ADOPTED.

8. CANADA (HERMAN) WAS POSITIVE ABOUT DEVELOPMENTS IN GENEVA BUT ACKNOWLEDGED THAT MUCH REMAINED TO BE DONE. THE READINESS OF G-77 MODERATES TO NEGOTIATE SERIOUSLY WAS THE MOST POSITIVE DEVELOPMENT, AND SIGNIFICANT IMPROVEMENTS OCCURRED REGARDING ARTICLE 151, ARTICLE 153, TOT, FINANCIAL ARRANGEMENTS (PARTICULARLY REGARDING RECOGNITION THAT PROFIT-SHARING SHOULD BE ATTRIBUTABLE ONLY TO MINING OPERATIONS), ARTICLE 140, AND ARTICLE 143 (THE LATTER OF WHICH NEEDS SOME CLARIFICATION, PERHAPS BY CROSS-REFERENCE TO ARTICLE 87). ARTICLE 150 PRESENTS LITTLE PROBLEM FOR CANADA BECAUSE THE PRINCIPLES STATED THERE DO NOT BITE. ARTICLE 150 (BIS) ALLOWS SUFFICIENT TONNAGE FOR ALL SEABED MINING ASPIRANTS. THE RELATION OF 150 (TER) TO QUOTA/ANTI-MONOPOLY PROVISIONS MUST BE CLOSELY EXAMINED. TOT REQUIREMENTS ON NON-SEABED MINERS IS UNACCEPTABLE TO CANADA. THE ENTERPRISE MUST NOT BE GIVEN A COMPETITIVE EDGE OVER OTHERS, AND COUNTRIES CONTRIBUTING TO FINANCING THE ENTERPRISE SHOULD BE GIVEN SOME CONTROL OF ITS ACTIVITIES COMMENSURATE WITH THEIR CONTRIBUTIONS. A JUDICIAL MECHANISM, AND NOT THE AUTHORITY, SHOULD BE EMPOWERED TO IMPOSE FINANCIAL PENALTIES.

9. ITALY (VARVESI) OPPOSED THE NJENGA TEXTS ON PRODUCTION LIMITATION, ABOUT WHICH "CONSUMERS ARE PERPLEXED AND PREOCCUPIED", THE REVIEW CLAUSE, AND TOT, CONFIDENTIAL

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BOTH "UNACCEPTABLE". THE TEXT OF 151 PRESENTS AN IMPROVEMENT OVER THE ICNT.

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SS-15 ICA-11 /158 W

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10. THE NETHERLANDS (BOS) AGREED IN GENERAL WITH FRANCE AND THE FRG AND OPPOSED THE PRODUCTION LIMITATION TEXT BECAUSE IT DOES NOT BENEFIT LDCS. TOT PROVISIONS ARE UNACCEPTABLE, ESPECIALLY BECAUSE OF THE PENALTIES PROVIDED FOR FAILURE TO TRANSFER. (ON THIS LAST POINT, BELGIUM, FRANCE, AND THE UK AGREED THAT EVEN THOUGH TOT MAY NO LONGER BE A PRE-CONDITION IN THE NJENGA TEXTS, THOSE TEXTS ARE NO IMPROVEMENT OVER THE ICNT.)

11. THE REMAINING TIME WAS TAKEN UP WITH DISCUSSION ON THE US DISTINCTION BETWEEN ACCEPTING NEW TEXTS AS THE CONFIDENTIAL

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BASIS FOR NEGOTIATIONS AND ACCEPTING THEM AS FINAL COMPROMISES. FRANCE, THE UK, AND THE FRG STATED THAT SUCH A DISTINCTION WAS RISKY: IT COULD EASILY BE OVERLOOKED, LEAVING THE IMPRESSION OF NEGOTIATING TEXTS AS AGREED COMPROMISES, ESPECIALLY IF THE NEW YORK SESSION DID NOT CONTINUE DISCUSSION OF THE SAME ISSUES (150 BIS, TOT, ETC.). FRANCE RECALLED THE US REACTION TO THE "ENGO TEXTS" IN 1977 AND REGRETTED THE POSITIVE US REACTION TO THE MINIMALLY CHANGED NJENGA TEXTS. THE US ACKNOWLEDGED THE RISKS MENTIONED AND NOTED THAT A MAJOR DISTINCTION BETWEEN THE NJENGA TEXTS AND THE ICNT IS THAT THE FORMER WERE THE PRODUCT OF TRUE NEGOTIATION. G-77 WILLINGNESS TO NEGOTIATE SERIOUSLY MUST BE ENCOURAGED, AND IT IS BEST THAT SUCH NEGOTIATIONS TURN TO

OTHER SUBJECTS SO THAT WE DEPART COMPLETELY FROM THE UNACCEPTABLE PROVISIONS OF THE ICNT AS A BASIS OF NEGOTIATION AND THEN REVIEW THE ENTIRE NEW SEABEDS PACKAGE TO DETERMINE WHAT FURTHER IMPROVEMENTS ARE REQUIRED.

12. COMMENT: REACTION WAS NOT UNEXPECTED AND MAY HAVE BEEN SHARPENED FOR EFFECT. IMPRESSION GAINED IN CORRIDOR TALK WAS THAT FEARS CONNECTED WITH LEAVING TEXTS NEGOTIATED IN GENEVA FOR FURTHER CONSIDERATION AFTER THE NEW YORK SESSION WOULD BE EASED IF THE US WERE TO MAKE CLEAR BEFORE THE SESSION THAT THESE TEXTS ARE NEGOTIATING TEXTS ONLY, ARE NOT BINDING, AND WILL BE RETURNED TO AT A LATER DATE.
HARTMAN

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: SEABED, MEETINGS
Control Number: n/a
Copy: SINGLE
Draft Date: 27 jun 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978PARIS20479
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Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
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Office: ACTION DLOS
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Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
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Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
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Review Date: 18 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2193925
Secure: OPEN
Status: NATIVE
Subject: LIKE-MINDED MEETING - JUNE 26, 1978 SUMMARY: LIKE-MINDED COUNTRIES, I.E., COUNTRIES WITH LIKELY SEABED MINERS, MET IN PARIS ON THE MORNING
TAGS: PLOS
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/ba17667f-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014